

AB:JPM

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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18 M 737

UNITED STATES OF AMERICA

- against -

BARSHAE MURPH,

Defendant.

COMPLAINT AND AFFIDAVIT
IN SUPPORT OF
APPLICATION FOR AN
ARREST WARRANT

(18 U.S.C. § 922(g)(1))

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EASTERN DISTRICT OF NEW YORK, SS:

MICHAEL MCCARTHY, being duly sworn, deposes and states that he is a Detective with the New York City Police Department, duly appointed according to law and acting as such.

On or about August 4, 2018, within the Eastern District of New York, the defendant BARSHAE MURPH, having been convicted in a court of one or more crimes punishable by imprisonment for a term exceeding one year, did knowingly and intentionally possess in and affecting commerce a firearm, to wit, a 9mm Bryco pistol with serial number 1416612.

(Title 18, United States Code, Section 922(g)(1))

The source of your deponent's information and the grounds for his belief are as follows:¹

1. I am a Detective with the New York City Police Department ("NYPD") and have been involved in the investigation of numerous cases involving firearm offenses. I am currently assigned to the Firearms Suppression Section. I am familiar with the facts and circumstances set forth below from my participation in the investigation; my review of the investigative file, including the defendant's criminal history record; and from reports of other law enforcement officers involved in the investigation. Where I describe the statements of others, I am doing so only in sum and substance and in part.

2. On or about August 4, 2018, at approximately 2:45 a.m., three NYPD officers ("Officer-1," "Officer-2" and "Officer 3") were in an unmarked police vehicle which was parked at a gas station at the corner of Sutter Avenue and Euclid Avenue in Brooklyn, New York (the "Gas Station"). Officer-1 was seated in the driver's seat of the police vehicle, Officer-2 was seated in the front passenger seat, and Officer-3 was seated in the backseat. While inside the vehicle, each of the officers observed an individual, later identified as the defendant BARSHAE MURPH, walk in front of the police vehicle near the gas pumps and toward the entrance of the Gas Station. At the time, MURPH was observed wearing a black tee shirt and blue jeans.

3. While seated inside the police vehicle, Officer-1, Officer-2, and Officer-3 observed the defendant BARSHAE MURPH pause while walking and move his

¹ Because the purpose of this Complaint is to set forth only those facts necessary to establish probable cause to arrest, I have not described all the relevant facts and circumstances of which I am aware.

hands around his abdomen area and the waistband of his jeans to adjust the jeans and the lower part of his shirt. As the defendant adjusted that area, each of the officers observed the impression of a hard object showing through the tee shirt that MURPH was wearing. Based on the shape and location of the object, among other things, each of the officers believed from their training and experience that the defendant had a firearm in the front waistband area of his jeans.

4. After the defendant BARSHAE MURPH was observed adjusting his waistband, each of the officers observed him continue walking toward the Gas Station. Each of the officers observed MURPH move his hand over the waistband area of his pants. Based on their training and experience, the officers believed he was securing a firearm in his pants prior to entering the Gas Station. The officers continued watching MURPH walk toward the Gas Station and then stand in the front entrance of the store. MURPH was observed looking around the parking area of the Gas Station and pacing about the doorway. MURPH was then observed entering the Gas Station.

5. The officers pulled their police vehicle forward and then exited the vehicle. The officers approached the entrance of the Gas Station and asked for the defendant BARSHAE MURPH to exit from the Gas Station. The defendant refused to exit the location and the officers entered the Gas Station. Officer-1 then approached the defendant and the officer put his hand to the waistband area of MURPH and felt a hard object in that area. Based on the officers experience, he believed he felt a firearm. Officer-1 then held the defendant while Officer-2 and Officer-3 entered the Gas Station and placed the defendant in handcuffs. After the defendant was handcuffed, Officer-1 pulled a black semiautomatic pistol from the front waistband area of the defendant's pants. The firearm

was identified as a Bryco Arms Jennings 9mm pistol. A serial number recorded from the firearm was 1416612. The firearm was black in color and was loaded with twelve cartridges of ammunition. The officers arrested the defendant.

6. I have obtained surveillance camera footage that was recorded at the Gas Station on August 4, 2018. That video footage, which included both the exterior and interior cameras, showed the defendant BARSHAE MURPH, who I identified through comparisons to known police photographs of him, approaching the Gas Station near the gas pumps. The video footage showed the defendant BARSHAE MURPH stop walking and move his hands around his abdomen area and the top of his jeans and adjusting his pants. After doing so, the defendant continued walking toward the Gas Station and can be observed moving his hand over the waistband area of his pants. The surveillance footage then shows the defendant stand in the entryway to the Gas Station before entering. The defendant was then observed looking around the parking area of the Gas Station and pacing about the doorway. MURPH was then observed entering the Gas Station. After MURPH entered the Gas Station, surveillance footage from inside the Gas Station showed Officer-1 approach the defendant and touch the waist area of the defendant. Officer-1 is then observed grasping the defendant while Officer-2 and Officer-3 handcuffed the defendant. The surveillance footage showed Officer-1 pull a black firearm from the defendant's jeans, underneath the defendant's shirt.

7. I have confirmed with agents of the Bureau of Alcohol, Tobacco, Firearms and Explosives that the Bryco 9mm firearm that was recovered from the defendant BARSHAE MURPH was manufactured outside the State of New York.

8. I have reviewed the defendant BARSHAE MURPH's criminal history and have determined that on or about April 6, 2010, the defendant was convicted of robbery in the third degree in Kings County Supreme Court, in violation of New York Penal Law § 160.05, a crime which was punishable by a term of imprisonment of more than one year.

WHEREFORE, your deponent respectfully requests that an arrest warrant be issued for the defendant BARSHAE MURPH so that he may be dealt with according to law.

S/ Michael McCarthy

MICHAEL MCCARTHY
Detective, New York City Police Department

Sworn to before me this
8th day of August, 2018

S/ James Orenstein

THE HONORABLE JAMES ORENSTEIN
UNITED STATES MAGISTRATE JUDGE
EASTERN DISTRICT OF NEW YORK